

DR. FADI CHAABAN; DR. SABINO R. TORRE;) UNITED STATES DISTRICT COURT
DR. CONSTANTINOS A. COSTEAS and) DISTRICT OF NEW JERSEY
DR. ANTHONY J. CASELLA, as Trustees of) Civil Action
Diagnostic & Clinical Cardiology, P.A.)
Profit Sharing Plan,) Case No. 2:08-cv-1567 (WJM)
)
Plaintiffs,)
) NOTICE OF MOTION TO DISMISS
v.) COMPLAINT FOR FAILURE TO STATE
) A CLAIM UPON WHICH RELIEF
DR. MARIO A. CRISCITO,) CAN BE GRANTED, PURSUANT
) TO FED. R. CIV. P. 12(b)(6)
Defendant.)
)

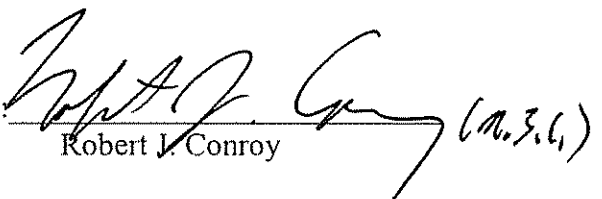
TO: STEPHEN M. CHARME, ESQ.
Witman Stadtmauer, P.A.
26 Columbia Turnpike
Florham Park, NJ 07932-2246
Attorneys for Plaintiffs

PLEASE TAKE NOTICE THAT, on June 2, 2008, at nine o'clock in the forenoon, or as soon thereafter as counsel may be heard, the undersigned, counsel for the defendant, Mario A. Criscito, M.D., shall move before the Honorable William J. Martini, U.S.D.J., United States District Court for the District of New Jersey, at the Dr. Martin Luther King, Jr., Federal Building and United States Courthouse, 50 Walnut Street, Newark, New Jersey 07102, for an Order dismissing the plaintiffs' complaint, with prejudice, for failure to state a claim upon which relief can be granted, pursuant to Fed. R. Civ. P. 12(b)(6).

PLEASE TAKE FURTHER NOTICE THAT, in support of the within motion, the moving party shall rely upon the accompanying brief. A proposed form of Order is submitted herewith.

PLEASE TAKE FURTHER NOTICE THAT the undersigned requests oral argument on the within motion in the event opposition is timely filed and served.

KERN AUGUSTINE
CONROY & SCHOPPMANN, P.C.
Attorneys for Defendant


By: 
Robert J. Conroy (N.J.C.)

Dated: Bridgewater, New Jersey
May 7, 2008

DECLARATION OF FILING AND SERVICE

I hereby certify that the within Notice of Motion, Brief and proposed form of Order were filed electronically this date via the Court's CM/ECF system, with copies simultaneously provided to counsel for the plaintiffs via the same method.

I declare under penalty of perjury that the foregoing statements made by me are true and correct.



R. Bruce Crelin

Dated: Bridgewater, New Jersey
May 7, 2008